

## RESPONSE AND REMARKS

Claims 1, 2, 4, 5, 12, 20 and 21 of the present application have been amended, as indicated above. Claims 11 and 15-19 have been cancelled. New Claims 22-28 have been added. Claims 3, 6-10, and 13-14 remain in the application unamended.

In the Office Action, the Examiner objected to Claims 14 and 21 as being dependent on rejected base claims, but indicated that Claims 14 and 21 would be allowable if rewritten in independent form to include the limitations of the base and intervening claims.

In response to the Examiner's indication that Claim 14 would be allowable if rewritten in independent form to include the limitations of the base and intervening claims, new Claim 22 has been added. With a few exceptions explained further below, new Claim 22 is directed to limitations claimed in original Claim 14, that claim's base claim (namely, Claim 1) and the intervening claims (namely, Claims 12, 11, and 10) on which Claim 14 depended.

It is respectfully submitted that the combination of elements in new Claim 22 is patentably distinct from the references of record. In particular, it is respectfully submitted that none of the references of record disclose or suggest, alone or in combination with any other reference, the combination of: a life vest; a two-way transceiver; an antenna connected to the life vest, wherein said antenna is connected to the two-way transceiver; a first microphone connected to the two-way transceiver; and a second microphone connected to the two-way transceiver, wherein the two-way transceiver is programmed to compare sound picked up by the first microphone with sound picked up by the second microphone.

Accordingly, new Claim 22 does not contain the limitation that the two-way transceiver *is embedded in the life vest* as was provided in original Claim 1. Nor does new Claim 22 contain the limitation that the two-way transceiver is operable for communication of radio frequencies between 462.5625 MHz and 467.7125 MHz. Further, new Claim 22 does not contain the limitations that the antenna is connected to a *shoulder portion* of the life vest, or that the antenna is connected to the two-way transceiver *with wires that are embedded in the life vest*. Yet

further, new Claim 22 does not contain the limitation that the first microphone is embedded in a *collar portion* of the life vest. However, the aforementioned limitations are provided, in one way or another, either separately or collectively, in new dependent Claims 23 through 28.

In response to the Examiner's indication that Claim 21 would be allowable if rewritten in independent form to include the limitations of the base claim (Claim 20), Claim 20 has been amended to add, with one exception described below, the limitations of Claim 21. Specifically, Claim 20 has been amended to add the limitation of "embedding a second two-way transceiver in one of: a second life vest or a mobile unit, wherein said first two-way transceiver and said second two-way transceiver are operable to communicate with each other." As compared to the limitation in original Claim 21 of "embedding a second two-way transceiver in one of a second life-vest or *contained in* a mobile unit", Claim 20 has been amended to claim "embedding the second two-way transceiver in one of: a second life vest or a mobile unit . . .", without the "contained in" language.

Claim 21 has been amended, still dependent on Claim 20, with the limitation of "connecting the first antenna to the shoulder portion of the life vest, such that the antenna forms an arc between the antenna and the shoulder portion of the life vest." For reasons further described below, it is respectfully submitted that connecting an antenna to form an arc between the antenna and the shoulder portion of the life vest is patentably distinct from the references of record.

#### SECTION 102(e)

In the Office Action, the Examiner rejected Claims 1-3, 6, 15, 17 and 20 under 35 U.S.C. § 102(e) as being anticipated by McClure et al., U.S. Patent No. 6,439,941 ("McClure").

The Examiner's rejection of the Claims under 35 U.S.C. § 102(e) has been carefully considered.

Claims 15 and 17 have been cancelled. As described above, Claim 20 has been amended to include limitations of Claim 21. Further, independent

Claim 1 (as well as several claims that are dependent on Claim 1) has (have) been amended.

Reconsideration of the application is respectfully requested in view of the amendments filed herewith and in view of following responsive remarks.

RESPONSIVE REMARKS REGARDING SECTION 102(e) REJECTIONS

Independent Claim 1, as amended, includes the element that "an antenna connected to a shoulder portion of the life vest, such that the *antenna forms an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is separated from the shoulder portion of the life vest.*" It is respectfully submitted that none of the cited references, whether considered alone or in combination with any other reference of record, disclose, teach or suggest a two-way communications device for aquatic sports comprising: "a life vest; a two-way transceiver embedded in the life vest; and an antenna connected to a shoulder portion of the life vest, such that the *antenna forms an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is separated from the shoulder portion of the life vest.*"

In the Office Action, the Examiner concluded that, "[I]t is not clear in McClure whether the antenna forms an arc relative to the shoulder portion of the life vest" but concluded that "[n]onetheless, it would have been obvious to one skilled in the art to form an antenna to have a shape conforming with the body contour of a user because it would provide conform to the user wearing the device."

It is respectfully submitted that the Examiner's reading of the claimed term "arc" as "hav[ing] a shape *conforming* with the body contour of a user" diverges from the explanation of the term in the specification of the present application. In comparison with the Examiner's reading of the claimed term "arc" as "conforming" with the body contour of a user, the specification of the present application explains that an arc "would serve to maximize transmission and reception characteristics" (Specification, page 7, lines 12-13) because:

When a user of the exemplary embodiment of the present invention is floating vertically in the water, the antenna 1 would not be submerged. Thus, reliable two-way communication could be maintained. Additionally,

bending the antenna 1 into an arc would minimize the risk of injury to the eyes. Shrouding antenna 1 with material 9, would "web" the inside of the antenna arc, thereby minimizing accidental snagging of the antenna 1. The shoulder position of the antenna 1 would minimize transmission and reception shielding effects by the user's body 17 (shown in FIG. 1a). The shoulder positioning of the antenna 1 would also minimize the user's exposure to radio frequency radiation.

Specification, page 7, lines 13-22.

In order to more clearly distinguish the claimed invention from the Examiner's reading of the claimed term "arc" as "conforming" with the body contour of a user, Claim 1 has been amended to recite that the antenna forms "an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is *separated* from the shoulder portion of the life vest." It is respectfully submitted that none of the references of record, whether alone or in combination with any other reference, disclose, teach or suggest an antenna forming "an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is separated from the shoulder portion of the life vest."

For the foregoing reasons, because independent Claim 1, is patentable over McClure, it is respectfully submitted that dependent Claims 2-10, and 12-14 (some of which have been amended), are therefore also patentable over McClure and the other references of record.

SECTION 103(a)

In the Office Action, the Examiner rejected Claims 4, 5, 7-13, 16, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over McClure.

The Examiner's rejection of the Claims under 35 U.S.C. § 103(a) has been carefully considered.

Claims 11, 16, 18, and 19 have been cancelled. Independent Claim 1, on which dependent Claims 5, and 7-10 and 12-14 depend, has been amended to more distinctly recite the claimed invention. Further, dependent Claim 2 (on which Claim 4 depends), and dependent Claims 4 and 5, have been amended, to more distinctly recite the claimed invention.

Reconsideration of the application is respectfully requested in view of the amendments filed herewith and in view of following responsive remarks.

RESPONSIVE REMARKS REGARDING SECTION 103(a) REJECTIONS

In rejecting original Claim 4 under section 103(a), the Examiner concluded that, "[I]t is not clear in McClure whether the antenna forms an arc relative to the shoulder portion of the life vest" but concluded that "[n]onetheless, it would have been obvious to one skilled in the art to form an antenna to have a shape conforming with the body contour of a user because it would provide conform to the user wearing the device."

It is respectfully submitted that, the rejection of Claim 4 under section 103(a) conceding that "[I]t is not clear in McClure whether the antenna forms an arc relative to the shoulder portion of the life vest" is contrary to establishing a *prima facie* case of obviousness under MPEP sections 706.02(j) and 2143.03 (requiring that, "to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art").

Further, for the reasons previously given above, it is respectfully submitted that the Examiner's reading of the claimed term "arc" as "hav[ing] a shape conforming with the body contour of a user" diverges from the explanation of the term "arc" in the specification of the present application. In comparison with the Examiner's reading of the claimed term "arc" as "conforming" with the body contour of a user, Claim 1 as amended, is directed to an antenna that forms "an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is separated from the shoulder portion of the life vest." It is respectfully submitted that McClure, whether considered alone or in combination with any other reference of record, does not disclose, teach or suggest an antenna forming "an arc relative to the shoulder portion of the life vest, wherein a middle portion of the antenna is separated from the shoulder portion of the life vest."

For the foregoing reasons and authorities, because independent Claim 1, is patentable over McClure, it is respectfully submitted that dependent Claims 2-10, and 12-14 (some of which have been amended), are therefore also patentable over McClure and the other references of record.

CONCLUSION

For all of the foregoing reasons, it is therefore respectfully submitted that, because new Claim 22 has been rewritten in independent form to include, with the exceptions explained above, the limitations of original base Claim 1, and intervening Claims 10, 11, 12, and 14, new independent Claim 22, and therefore the claims dependent on it (Claims 23-28) are in condition for allowance.

Further, for all of the foregoing reasons, it is therefore respectfully submitted that, because Claim 20 has been amended to include, with the exceptions explained above, the limitations of original dependent Claim 21, Claim 20, and therefore the claims dependent on it, namely, Claim 21, are in condition for allowance.

Further, for all of the foregoing reasons, it is respectfully submitted that independent Claim 1, as amended, and dependent Claims 2-10 and 12-14, as amended or as originally submitted, as the case may be, are patentable over McClure and the other references of record.

Applicant respectfully submits that the invention disclosed and claimed in the present application, as amended, is not fairly taught by any of the references of record, taken either alone or in combination and that the application is in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and allowance of the application as reflected in the claims as amended herewith.

Respectfully submitted,

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